

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Joseph Russello, an attorney duly licensed to practice in the State of New York, hereby deposes and says, under penalty of perjury, that:

1. I am associated with the law firm of Coughlin Stoia Geller Rudman & Robbins LLP, counsel for Plaintiff Ferguson Family Trust (“Plaintiff”) in this matter, and I submit this Reply Affidavit for the purpose of placing certain documentary exhibits before the Court in connection with Plaintiff’s Reply Memorandum of Law in further support of Plaintiff’s application by Order to Show Cause for a preliminary injunction.

Exhibits Referenced in the Reply Memorandum of Law


2. The following documents, each of which is a true and correct copy, are referred to as Exhibits in the accompanying Reply Memorandum of Law by the corresponding letters set forth next to each one:

A. Transcript of May 30, 2008 oral argument before the Court in connection with Plaintiff's expedited discovery motion;

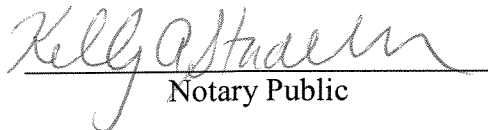
- B. Cover letter dated May 30, 2008 from Citigroup Alternative Investments LLC, together with Supplement No. 3, dated May 30, 2008, to the Tender Offer Memorandum;
- C. Supplement No. 1, dated May 23, 2008, to the memorandum issued in connection with the Falcon Strategies Two B LLC tender offer; and
- D. Page 17 from the memorandum issued in connection with the MAT Five LLC tender offer.

WHEREFORE, Plaintiff respectfully requests the Court to grant its motion for a preliminary injunction, together with such other, different or further relief as this Court deems just and proper.

Dated: Melville, New York
June 10, 2008


JOSEPH RUSSELLO

Sworn to and subscribed before me
this 10th day of June 2008.


Notary Public

KELLY A. STADELMANN
Notary Public, State Of New York
No. 01ST6047260
Qualified In Nassau County
Commission Expires August 28, 2010

EXHIBIT A

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x

4 FERGUSON FAMILY TRUST,

5 Plaintiff,

6 v.

08 Civ. 4723 (SHS)

7 FALCON STRATEGIES TWO LLC, et al.,

Argument

8 Defendants.
9 -----x

New York, N.Y.
May 30, 2008
1:25 p.m.

10 Before:

11 HON. SIDNEY H. STEIN

12 District Judge

13 APPEARANCES

14
15
16 COUGHLIN STOIA GELLER RUDMAN & ROBBINS LLP
Attorneys for Plaintiff
17 JOSEPH RUSSELLO, ESQ.
ROBERT M. ROTHMAN, ESQ.
18

19 PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
Attorneys for Defendants Falcon Strategies Two and
20 AMACAR GP and Citigroup
CHARLES E. DAVIDOW, ESQ.
21

22 ARKIN KAPLAN RICE LLP
Attorneys for defendant Raez Islam
23 SEAN R. O'BRIEN, ESQ.
24
25

1 (Case called)

2 THE CLERK: Counsel, please state your names for the
3 record.

4 MR. RUSSELLO: Joseph Russello, with the firm of
5 Coughlin Stoia Geller Rudman & Robbins, for the plaintiff.

6 MR. ROTHMAN: Robert Rothman, from Coughlin Stoia
7 Geller Rudman & Robbins, on behalf of the plaintiff.

8 THE COURT: Good afternoon.

9 MR. DAVIDOW: Charles Davidow, from Paul, Weiss,
10 Rifkind, Wharton & Garrison, for defendants Falcon Strategies
11 Two, AMACAR, Citigroup Alternative Investments, and Citigroup
12 Inc. With me is my colleague Christy Tillingham.

13 THE COURT: Good afternoon.

14 MR. O'BRIEN: Sean O'Brien on behalf of Arkin Kaplan
15 Rice, for defendant Raez Islam.

16 THE COURT: Good afternoon. First, a disclosure. I
17 was an attorney at the firm of Paul, Weiss, Rifkind before.
18 That's where I started my legal career. I left that firm to
19 start my own firm in 1981.

20 Let me set forth on the record the status of the case
21 as I understand it. Apparently, it originally commenced with
22 the filing of the summons and complaint and the presentation of
23 an order to show cause before Judge Batts in Part I on May 21.
24 It looks as if the case was assigned at that point to Judge
25 Castel. In any event, sometime subsequent to that it was

1 wheeled out to me. It must be that Judge Castel recused
2 himself, although I don't know.

3 The order to show cause that was signed by Judge Batts
4 does not set a date for requested briefing on a motion for a
5 preliminary injunction. It says TBA, which I guess is to be
6 ascertained. But it does provide that today at this time is
7 the return date of an application for expedited discovery.
8 That's where I find myself.

9 The briefing, the moving papers, were a memorandum in
10 support of an application by order to show cause for expedited
11 discovery and preliminary injunction. So the movants have
12 briefed not only the expedited discovery, which I repeat is
13 what is on before me today, but also the motion for a
14 preliminary injunction. And there was an affidavit with that,
15 the affidavit of Mr. Rudman.

16 The defendants filed a memorandum of law also, in
17 opposition to both the application for expedited discovery and
18 for preliminary injunction, along with an affidavit of Mr.
19 O'Brien. And earlier this morning I received a reply
20 memorandum of law in further support of the request for
21 expedited discovery. The reply did not deal with the motion
22 for a preliminary injunction.

23 So, as I see it, today is a motion for expedited
24 discovery, and indeed the motion for preliminary injunction is
25 fully briefed but for a reply memorandum by the movants. Do

1 both sides agree with that as a statement of where we are
2 today?

3 MR. RUSSELLO: Yes, your Honor.

4 MR. DAVIDOW: Yes, your Honor, it is, although we
5 believe your Honor has a sufficient record to deny the
6 preliminary injunction today if you chose.

7 THE COURT: I'm not going to, because I'm not fully
8 versed in that aspect of it.

9 I have some basic questions that I need to get a
10 better sense of. There is a tender offer. Plaintiffs have to
11 decide what to do. They have to decide whether to tender their
12 shares, which entails getting 45 cents a share, I think. In
13 exchange, they release certain claims. They have to decide
14 whether to do that, whether or not to tender their shares. The
15 tender offer closes, I believe, on June 30. Correct so far?

16 MR. RUSSELLO: Yes, your Honor.

17 THE COURT: If they don't tender their shares, then
18 they will participate in the per share value as the entity is
19 liquidated, correct?

20 MR. RUSSELLO: Yes.

21 THE COURT: I understand full well how plaintiffs
22 would want the most information possible so they can be as well
23 informed as is possible on which of those two options to
24 choose, in other words, whether to tender their shares or not
25 to tender their shares.

1 What I'm having trouble understanding is how that
2 concept gibes with the complaint itself, which is based on rule
3 10b-5 and section 10(b) of the Securities Exchange Act and
4 section 14(e) of the Securities Exchange Act. Then there is a
5 separate claim under Delaware law for breach of fiduciary
6 duties. Do I have the claims down?

7 MR. RUSSELLO: Yes, your Honor.

8 THE COURT: 10b-5 and 14(a) are essentially antifraud
9 provisions. They state essentially that it's unlawful for
10 anyone by any means or instrumentality in interstate commerce
11 to make an untrue statement of material fact or to omit to
12 state a material fact necessary in order to make the statements
13 made in the light of the circumstances under which they were
14 made not misleading. That's what you are arguing. You're
15 claiming that there were fraudulent statements or fraudulent
16 omissions, that is, omissions necessary in order to make the
17 statement made not misleading.

18 MR. RUSSELLO: Yes, your Honor.

19 THE COURT: I don't really see any claims of
20 misstatements. I see requests for more information, which I
21 think are understandable. But I take it there is some body of
22 law out there that says what type of information you are
23 entitled to in tenders offers and what isn't. You don't seem
24 to be invoking those. You seem to be invoking the antifraud
25 provisions of the Securities Exchange Act. That's a

1 dislocation that I don't understand. Speak to me.

2 MR. RUSSELLO: Your Honor, if I may. Essentially,
3 what we were seeking to do was proceed under the securities
4 laws and, in addition, 14(e), which is part of the Exchange
5 Act, and of course also the Williams Act. We believe that the
6 goals of those two statutes essentially are to provide full and
7 accurate material information to shareholders or in this case
8 investors. 14(e) specifically is addressed to the context of a
9 tender offer.

10 You are absolutely correct in saying that we are
11 seeking additional information to render certain statements not
12 misleading. That's where we are essentially alleging those
13 claims. They may be recklessness claims. They may not be
14 claims where somebody set out to defraud the investors
15 specifically, but certainly we believe there are grounds to
16 proceed under those two sections.

17 In that respect, the tender offer is an unlawful
18 tender offer, if you will, which I believe is referred to by
19 even the Gulf case in the Second Circuit, which says that
20 nobody has a right to proceed with an unlawful tender offer.
21 So the claims somewhat coalesce between the Delaware law claims
22 and the securities law claims because we are seeking additional
23 information.

24 THE COURT: The Delaware law claims are not your
25 Williams Act claim, right? That's separate?

1 MR. RUSSELLO: That is correct, that's separate.
2 However, a main concern of the Delaware courts and the Delaware
3 law in general which applies here as well is full and accurate
4 material information to shareholders and investors, and in fact
5 perhaps even broader than the securities laws in certain
6 respects, and of course without an intent requirement.

7 THE COURT: There is an automatic stay under the PSLRA
8 during the pendency of a motion to dismiss, and there is case
9 law that says that's true before a motion to dismiss is filed
10 if the time has not expired in which to file a motion to
11 dismiss, which is the situation here. I understand that I have
12 the ability to permit some discovery, particularized discovery,
13 in order to prevent undue prejudice.

14 What the defendants say is the end game here for
15 plaintiff is the discovery itself, that is, what you are
16 seeking is discovery. I'm sympathetic to that concept. I'm
17 not certain what the law requires, what the boundaries are as
18 to how much has to be disclosed in the context of a tender
19 offer, but I certainly understand the idea that you need to
20 make an informed decision.

21 The defense is saying that's what you want here, you
22 just want discovery so you know what to do with your shares,
23 and you want the injunction in order that the time will be
24 extended by which you have to make up your mind, and in the
25 meantime you want to be getting additional information and

1 analyzing that to make the most informed choice possible. But
2 they say the discovery is the end point here, the discovery is
3 not a means to determining whether or not fraudulent and
4 misleading statements have been made. Address that.

5 MR. RUSSELLO: Your Honor, we think that's incorrect,
6 with all due respect.

7 THE COURT: It's correct that what you really want
8 here is more information so you know what to do with your
9 shares, and you want more time so that when you get more
10 information you'll be able to make a more informed decision.

11 MR. RUSSELLO: Yes, we wholeheartedly agree with your
12 Honor's characterization. We didn't agree with the defendants'
13 characterization of this being kind of an end run around the
14 PSLRA stay. The reason for that --

15 THE COURT: It's not an end run. It's a total
16 knocking it down. You go right into it and tackle it, you
17 don't go around it.

18 MR. RUSSELLO: Of course, we are seeking information
19 regarding some of the omissions that we have identified in
20 order to then provide a full record for the Court and even the
21 parties, for the benefit all, to determine which corrective
22 disclosures, if any, need to be made. That's the first point.

23 The second point, because this is a private --

24 THE COURT: Again, I don't think it is corrective
25 disclosure. As I said, I don't want this to be an argument on

1 the injunction, but there is a merger here to a certain extent
2 of the merits on this discovery issue. It's not corrective
3 disclosures you're seeking, it's disclosure disclosures. They
4 don't seem to be connected to a misleading statement. That's
5 what I'm still struggling with.

6 MR. RUSSELLO: It may be termed more properly a
7 supplemental disclosure. I'm give you an example. With regard
8 to the net asset value of the shares, for instance, defendants
9 say they have produced enough information about that. As it
10 turns out, in Mr. O'Brien's affidavit in paragraph 11 he notes
11 that the net asset value as of May 31, 2008, will be available
12 on or about June 28, 2008, a month later. The tender offer
13 closes --

14 THE COURT: I'm sorry. They say that monthly the
15 participants in this get the net asset value and it takes it
16 almost a month to get the net asset value. I think monthly
17 throughout the investment that's what's been happening,
18 correct?

19 MR. RUSSELLO: I believe that may be what's happening.
20 I can't speak directly to that other than insofar as defendants
21 have said it. However, our issue with that, and this is why
22 this is an issue on which we need additional or supplemental
23 disclosure, is because in the connection of this tender offer,
24 which involves obviously a private fund, there's no publicly
25 available information whatsoever.

1 That sort of ties in with Judge Mukasey's case, the
2 American Insured case, which involved a public company.
3 However, there it appeared that it was very difficult to value
4 the company. And that's what we get down to here. It's very
5 difficult for investors to determine a fair value for this
6 company when they are receiving the information a month later.

7 Now, the defendants are already accepting tendered
8 shares, and they will make payment on those shares as early as
9 June 6, 2008. So we already have a transaction in which money
10 has flowed through to the investors.

11 We can't really speak to how difficult it would be to
12 reverse that kind of a transaction. That's why we are seeking
13 information regarding something like the net asset value in
14 order to provide investors with that information on an earlier
15 basis than they would ordinarily receive it on the base of the
16 transaction.

17 THE COURT: When does the May 30 net asset value come
18 out? Does it come out prior to the close of the tender offer?

19 MR. RUSSELLO: As far as I understand, it comes out
20 two days prior to the tender offer.

21 THE COURT: You will have that then.

22 MR. RUSSELLO: The only problem is that investors
23 currently are tendering shares and in doing so they are also
24 releasing claims and potentially will not revoke those tenders.
25 That's where the issue is. That's where we tie in to the

1 principles under the Williams Act and Delaware law in providing
2 investors with fully informed circumstances under which to make
3 decisions about significant corporate transactions like the
4 tender offer.

5 THE COURT: Can you cite a particular case or
6 provision that is not an antifraud provision, that doesn't deal
7 with misleading statements, but that simply says you haven't
8 gotten the information you're entitled to in a tender offer?

9 MR. RUSSELLO: Essentially, your Honor --

10 THE COURT: That doesn't seem to be what you are suing
11 on. Go ahead.

12 MR. RUSSELLO: The same rules that would apply to any
13 corporate transaction such as a merger would also apply here.
14 That's where we come into Delaware law as well. The Pure
15 Resources case is specifically on point in a sense. That was a
16 Delaware chancery court case in which a so-called naked
17 fairness opinion was disclosed to investors.

18 What that fairness opinion said was just basically the
19 end game, the result: This is the result, this is the
20 valuation of your shares, this is the valuation of your shares.
21 There was not the work, so to speak, that went into that, the
22 analyses.

23 Here we have a similar situation. In disclosing only
24 the net asset value but not the inputs themselves, which we
25 deem are material and should be disclosed -- and really I think

1 the standard is materiality here, what's material and what's
2 not. Under Delaware law, all material information must be
3 disclosed. That would include the analyses or the inputs that
4 went into determining the net asset value. So that's more
5 information we would like.

6 THE COURT: When you say the inputs, you certainly
7 know the methodology. Right? The methodology of their
8 obtaining the net asset value figure has been disclosed.

9 MR. RUSSELLO: That was disclosed in the initial
10 offering memorandum. But as far as I understand it, it was not
11 disclosed in connection with this tender offer, and that is
12 also something we would like disclosed. I know defendants have
13 characterized that as almost quarreling with the methodology.
14 There is no quarreling. It's just additional information that
15 should be disclosed in this context.

16 THE COURT: What you want to know is if the
17 methodology of determining net asset value has changed from the
18 original offering memorandum?

19 MR. RUSSELLO: That's precisely what we also need to
20 know. That's extremely material, particularly because of the
21 events that have recently occurred with the credit and
22 financial markets. There is an indication in the offering
23 memorandum that in fact the strategy has changed, that most of
24 the assets now are parked into two separate investments, asset-
25 backed securities and some other securities, as a result of

1 some turmoil or perhaps even mishandling of the funds.

2 THE COURT: That's a different issue, I think. You're
3 talking now about whether the methodology of the investments
4 they are in has altered. I thought we were talking about the
5 methodology of how they determined what they call NAV.

6 MR. RUSSELLO: Yes, your Honor. But they are almost
7 interrelated issues because insofar as some sort of strategy
8 has changed, inevitably the inputs will change. And even if
9 they are using the same methodologies, the net asset value
10 would not have the same sort of weight it would have if they
11 had stuck with the initial structure and the investment
12 strategy. Certainly it can also be a separate issue insofar as
13 yes, that's purely material information with regard to whether
14 or not they are calculating it the same way that they
15 represented initially.

16 Also, I should point out that the initial offering
17 memorandum may not even be within the investors' possession at
18 this point. A lot of these investors are credit investors, and
19 they have brokers and others who sort of communicate things
20 between them and information about the company and things of
21 this nature. So it's not clear whether or not they even have
22 that information within their possession at this point.

23 THE COURT: When you say the inputs, are you talking
24 about the specific assets of the company? The company says, if
25 we disclose the specific assets, that will hinder our ability

1 to sell them in a liquidation. I assume what they mean is if
2 they disclose that they have \$2 billion of X security, then the
3 market will know that there is about to come on to the market
4 \$2 billion of that security, which will hinder Falcon's ability
5 to liquidate.

6 MR. RUSSELLO: That's sort of circuitous logic. The
7 reason why is, first of all, investors have to decide whether
8 or not to retain their shares as part of the tender offer.
9 They can retain their shares and have no idea how things are
10 being liquidated or what the assets are to make any independent
11 determination or even a determination based on information
12 that, of course, is exclusively within defendants' possession,
13 to see what the value of these assets is now as compared to the
14 tender offer consideration, to see what may occur in the
15 markets, to kind of wait it out even. They don't really have
16 that option.

17 In this context particularly, where you have, again, a
18 private entity, and this information simply can't be obtained
19 anywhere else, the information is more material than ever. I
20 harken back to the American Insured case with Judge Mukasey,
21 who said that essentially the circumstances are what deem what
22 is material and what it is.

23 But specifically with the assets, first of all, that
24 was a completely conclusory statement in an affidavit. Other
25 than that, there's no indication that investors themselves are

1 going to disclose this information publicly. That would, of
2 course, undercut their own interests.

3 THE COURT: Thank you.

4 Let me hear from the defense. I'll hear whatever
5 you'd like to say, but I'd like a preview of your response on
6 irreparable injury.

7 The plaintiff says, and it has some resonance with me,
8 that because Falcon is being liquidated, if they are right, at
9 the end of the day there are not going to be any assets there.
10 I think your response in your papers was, first of all, it's
11 money damages we're talking about, and if the value has been
12 miscalculated, the reward for that or at the end of the day
13 what they will get is a difference in value; but even if Falcon
14 is liquidated, there are other defendants here, so it doesn't
15 matter. Is that essentially your response?

16 MR. DAVIDOW: Yes, although I'd like to elaborate
17 slightly. The notion that Falcon's liquidation will deprive
18 them of a source of funds is wrong for three separate reasons.

19 First, bear in mind Falcon is just a pool of assets.
20 They own it. If their notion is they are going to sue Falcon
21 and get money out of it, all they are doing is suing
22 themselves, taking money out of their left pocket and, after
23 paying a fee to their counsel, putting what's left into their
24 right pocket. The notion that this class will want to recover
25 damages from Falcon is, frankly, preposterous.

1 Second of all, the issue before you is not --

2 THE COURT: Why? You mean its preposterous in a
3 different way than shareholders suing a corporation because
4 they own the corporation also?

5 MR. DAVIDOW: It differs from that in a couple of
6 respects. One is there is a changing group of shareholders in
7 a corporation. Second, the corporation is an operating
8 business that is continually generating new money. This is
9 just a pool of assets that's being liquidated. There's no one
10 other than themselves to recover in a much more literal sense
11 than is the case in an action against a corporation.

12 The second reason why their argument is invalid is
13 that we're not here talking about the liquidation. One way or
14 another this entity is going to be liquidated. They are not
15 trying to stop it. They can't stop it. Whether they tender or
16 not, it will be liquidated.

17 Whatever claims they have, if they don't release them,
18 they will be bringing them against this liquidating entity. If
19 they do release them, then there will be no one they need to
20 bring them against. But the fact of the liquidation is not
21 what's before your Honor here.

22 As you noted, the other defendants aren't going
23 anywhere. So the argument that they will be prejudiced in that
24 way simply doesn't work.

25 More significantly, it seems to me, the basic core

1 elements of irreparable injury aren't met. Number one, this is
2 a transaction that ultimately involves changing who owns what's
3 left in Falcon and paying out money to the tendering
4 shareholders now. If the Court were to decide at some point in
5 the future that they really do have a claim and the interests
6 need to be rejiggered back to where they were, this is not a
7 case where things will have happened that wouldn't have
8 happened otherwise, and that can still be done.

9 Second of all, what they are getting at is a matter
10 that is purely compensable in damages. If their view is 45
11 cents turns out not to be a good price, then they still have
12 their claim.

13 Now, since in this particular tender offer those who
14 tender will retain an interest in the excess, they are going to
15 know what the excess is, if any. This is purely a matter
16 that's compensable in damages.

17 THE COURT: Wait. Do that again. I thought if you
18 tender it's only if you're part of that second group that you
19 retain an interest.

20 MR. DAVIDOW: Essentially, Falcon could only be
21 offered to accredited investors, that is, those who met certain
22 net worth requirements. Anyone who tenders and who still meets
23 those requirements will get participation shares. It
24 automatically goes with it. It's only if someone has had a
25 sufficient downturn in their net worth that they are no longer

1 accredited.

2 THE COURT: I see. I didn't realize that.

3 MR. DAVIDOW: So the fact is that they will still have
4 a 75 percent interest in the liquidation above 45 cents, if
5 any, although the materials indicate that that seems unlikely
6 given that the net asset values at the moment are in the low
7 20's.

8 There are a couple of other points I'd like to
9 address. First, with respect to the statement that NAV's
10 aren't available --

11 THE COURT: NAV's aren't?

12 MR. DAVIDOW: Aren't available. The suggestion is
13 they don't have any current NAV's. As of the time of the
14 current tender offer, the most recently NAV available was March
15 31st, and it was provided. The April 30th NAV just became
16 available in the last couple of days according to the normal
17 schedule. It has been posted. It's available online to
18 investors who choose to get their information that way. And
19 it's in the mail, so those who rely on the mail will have it
20 within a few days. There's every reason to expect that their
21 NAV's for the end of May will be available in late June, just
22 as you suggested.

23 As to the reason it takes so long, there are some
24 small number of assets remaining that one can price off of a
25 pricing service, and those are easy. The overwhelming majority

1 of them are not in that category. They are highly illiquid
2 investments, such as mortgage-backed securities, collateralized
3 loan obligations, collateralized debt obligations.

4 The way those are priced is that the custodians, or
5 Citi Alternative Investments, has to go out and try and find a
6 brokerage firm that will give them a quote. We're talking
7 about hundreds of these illiquid and somewhat arcane
8 investments. That's a process that takes time.

9 There has been no issue raised as to the adequacy or
10 the accuracy of these valuations. Plaintiffs have not been
11 able to allege that there's anything wrong with the NAV's. And
12 they are being provided them on a normal basis.

13 Each investor is perfectly in a position to say, my
14 NAV was 20 cents a share last month, it's 22 cents a share this
15 month, they are offering me 45 cents a share as part of this
16 tender offer. The investor is then in a situation where it can
17 say, I will or will not take the risk that this will turn out
18 to be a good deal or a bad deal based on what I know about the
19 value of what I have now.

20 With respect to the underlying assets, I'm unaware of
21 any case, even those involving publicly held securities which
22 are subject to specific disclosure requirements under the
23 Williams Act, where a court has said you must list every asset
24 and put a price on it. I have not seen that held. To the
25 contrary, there are two Delaware cases, and it's really

1 Delaware that plaintiffs are relying on principally on this
2 issue, that are very close to directly on point and come out to
3 the contrary.

4 The Delaware supreme court addressed the case in Skeen
5 v. Jo-Ann Stores, which we cite in our brief. That was a
6 cash-out merger transaction where the minority shareholders
7 claimed they needed backup detail behind the company's
8 financial statements to assess the best course of action, just
9 as the plaintiff is saying here.

10 The Delaware supreme court rejected that view. In a
11 couple of quotes, first it said, quote, "Omitted facts are not
12 material simply because they might be helpful." Second, it
13 said, "The complaint alleges no facts suggesting that the
14 undisclosed information is inconsistent with or otherwise
15 significantly differs from the disclosed information."

16 THE COURT: That's from Skeen?

17 MR. DAVIDOW: That's Skeen, yes, your Honor. The
18 court goes on to state, concluding the quote, "Appellants
19 merely alleged that the information would be helpful in valuing
20 the company." That's precisely what plaintiffs are saying here
21 and precisely what the Delaware supreme court rejected.

22 The point here is that the key information they need
23 they have. As your Honor noted, providing a complete list of
24 several hundred of these highly illiquid investments to our
25 hundreds of investors would run an extreme risk, indeed almost

1 a certainty, that that information would get out.

2 When you're talking about these illiquid securities,
3 telling the other firms on Wall Street that there is, shall we
4 say, a very highly motivated seller looking to sell them would
5 reasonably be expected to be damaging to the ability to obtain
6 the best value from those investments.

7 The other items that plaintiffs claim they need,
8 frankly, are makeweights. They claim they need to know more
9 about a class action that was filed against a different Falcon
10 partnership, not the one in which they invested, and it was
11 voluntarily dismissed by the plaintiff.

12 If what they want to know is what do other people
13 think the defendants did wrong, they can find that. That
14 complaint is publicly available to them. It was filed in the
15 Southern District of Florida and we closed it.

16 They say that we have disclosed that there is a
17 regulatory proceeding and they want to know all about it. No
18 case has been brought. As we have disclosed, we received two
19 document requests from the SEC relating to Citigroup-related
20 hedge funds generally.

21 THE COURT: I take it it doesn't involve the
22 defendants?

23 MR. DAVIDOW: Yes. Well, it involves Citigroup, hedge
24 funds owned by Citigroup, Citigroup, Inc. and Citigroup
25 Alternative Investments.

1 THE COURT: All right.

2 MR. DAVIDOW: All we have at this point is a request
3 for documents. The notion that they have to see that request
4 because it will affect the decisions of investors once again
5 appears to me to be a makeweight.

6 Finally, they suggest that they need to know more
7 about what they view as inaccurate sales practices or
8 inaccurate representations. Again, that's difficult to
9 understand because their complaint asserts that this was sold
10 as a conservative investment when the offering memorandum
11 states on its face that it's highly risky.

12 The last point I want to make is that plaintiff's
13 counsel indicated that some of the investors may have lost
14 their offering memoranda. If there's an investor who wants a
15 copy of the offering memorandum and doesn't have it, they
16 really ought to ask. They don't need to come to court to seek
17 injunctive relief to get that.

18 In sum, your Honor, our view of this is they haven't
19 come close to alleging any of the basic elements for a
20 preliminary injunction. No matter how much discovery they seek
21 or get, they are not going to be able to establish irreparable
22 injury here.

23 No matter how much discovery they seek or get, they
24 are not going to be able to create out of thin air disclosure
25 requirements when, as your Honor pointed out, 10(b) and 14(e)

1 are antifraud provisions. Additional discovery is not needed
2 for those.

3 That was the reason why I had suggested at the
4 beginning of the day that your Honor has all the information
5 necessary and the briefs adequate to address the issue of
6 whether a preliminary injunction should be granted at all.
7 Recognizing that your Honor doesn't choose to do that today,
8 we'd be happy to appear at whatever time your Honor sets.

9 THE COURT: Thank you.

10 Did you wish to add anything, sir?

11 MR. O'BRIEN: No. I just join in Mr. Davidow's
12 presentation.

13 THE COURT: Thank you.

14 Did you have anything you wanted to rebut?

15 MR. RUSSELLO: Yes, your Honor. Briefly, I'll touch
16 on a few points here.

17 The first point that I wanted to address was
18 irreparable harm. If we even get to this part of the
19 equation -- actually it's not a requirement under the good
20 faith standard that allows parties to conduct discovery on an
21 expedited basis. Judge Lynch held that in Bank Al-Madina, I
22 believe it was. So we actually believe that that standard
23 should apply.

24 But assuming that we do need to make a further showing
25 here with regard to the irreparable harm, defense counsel

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1 actually made our case for us insofar as he stated that there
2 wouldn't be any monetary recover available from Falcon, there
3 just wouldn't be. So in this case at this stage injunctive
4 relief is appropriate.

5 More than that, the Federated case again is somewhat
6 on point here because that case involved a tender offer in
7 which noteholders were asked to tender but because the company
8 had a planned insolvency, as a part of a reorganization I
9 believe it was, there wouldn't be any funds to recover. So
10 there that was held to be irreparable harm. We have a similar
11 situation here with this planned liquidation, and we really
12 think that requires further consideration.

13 THE COURT: Again, for example, you ask for documents
14 to disclose the current net asset value.

15 MR. RUSSELLO: Yes.

16 THE COURT: You will get the current asset value on
17 the schedule that has always been available, apparently.
18 Discovery on the methodology of determining the net asset
19 value, for example, you have that. And you are not alleging
20 this is anything misleading about that as I understand it, is
21 that right? You say it may have changed; that I understand.

22 MR. RUSSELLO: In context it may be misleading. The
23 reason why is because the net asset value of course would have
24 changed. When the offering memorandum came out, it was May
25 8th. At that time they disclosed net asset value for March

1 31st. In connection with a tender offer, you would think that
2 that would at least require additional disclosure on an earlier
3 basis. Disclosing on June 28th the net asset value from a
4 month early just does no good for investors.

5 THE COURT: That brings me again to where I'm stuck.
6 The allegations are fraudulent misstatements, but you seem to
7 be simply saying, I want more information to know whether or
8 not I should tender my shares as opposed to information
9 designed to unpack an alleged fraudulent misstatement. That's
10 where I'm stuck.

11 MR. RUSSELLO: Part of the issue I think arises under
12 just the general policy of the Williams Act, which was
13 essentially enacted to target investors with enough
14 information. It's still an antifraud provision, that's
15 absolutely true.

16 But here we are also alleging certain recklessness
17 that occurred. That comes out of the fact that Citigroup and
18 CIA and its affiliates control this company. So as part of the
19 transaction, what's going to happen is that for each tendered
20 share, Citigroup is going to pay the tender offer amount, 45
21 cents, and a newly issued share is going to be issued to
22 Citigroup. So the money is essentially going to pass directly
23 through.

24 Citigroup is, of course, in a position of superior
25 knowledge. Inevitably, it is using that knowledge to move

1 forward on a tender offer which is sort of under the guise of
2 Falcon acquiring its own shares. In reality, it's really
3 Citigroup acquiring Falcon. So there must certainly be some
4 information out there that is useful to investors.

5 That's what we are alleging, that there is information
6 out there that would render some of the statements misleading
7 in its absence because we just don't know what the current net
8 asset value is, we don't even necessarily know the purpose of
9 the transaction. Of course, defendants have said they don't
10 have to disclose that. In truth, in the Arnold case the
11 Delaware supreme court held that in fact certain aspects of the
12 events leading up to a transaction do need to be disclosed.

13 Your Honor, I don't know if you would like me to spend
14 more time on this or if you would like me to move on to further
15 points.

16 THE COURT: Go ahead, move on.

17 MR. RUSSELLO: With respect to the Skeen case, there
18 are two interesting cases that follow Skeen. One is the Pure
19 Resources case. In that case specifically the Delaware
20 chancery court tried to resolve what it called an ambivalent
21 response toward disclosure and said that stockholders are
22 entitled to a fair summary of the substantive work performed by
23 investment bankers upon whose advice the recommendations of the
24 board as to how to vote on a merger or tender rely.

25 We do think that that is akin to a situation where

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1 your only access is information provided by defendants of, say,
2 the NAV but no other underlying information. There the court
3 specifically spoke to Skeen and supposedly resolved that
4 ambivalent response issue.

5 There is also another case that followed Skeen, and I
6 believe that that is the Ericsson case, which is also in
7 Delaware. That I think essentially pointed out that the
8 plaintiffs didn't allege that there was anything wrong with the
9 information that was provided in Skeen, so that didn't
10 necessitate any further disclosure.

11 But here we have some other, additional issues that
12 were deemed makeweight by defendants. The SEC inquiry by no
13 means is makeweight. In fact, an important case on this point
14 may be the Gulf case, again the Second Circuit, where A&P was
15 going to be inquired into. There was a transaction involving
16 A&P, but what wasn't disclosed were these very real antitrust
17 risks.

18 Here as well we have very real regulatory risks.
19 People don't know the scope of the inquiry other than it
20 involves Citi's management of its hedge funds. Does that
21 include Falcon? Presumably so, but, again, we don't have any
22 information on that.

23 The fact that the SEC has made document requests
24 actually bears in favor of lifting any stay of discovery at
25 this juncture.

1 THE COURT: How? I don't understand your entitlement
2 to know what a regulatory action by the government involves.

3 MR. RUSSELLO: Part of the problem is the fact that
4 investors are being asked to release their claims. So they
5 can't determine the nature of their claims necessarily if they
6 don't really know the scope of the regulatory investigation
7 that may uncover some information.

8 The second thing is that there are those cases, Judge
9 Sweet I believe in LaBranche, for instance, ordered the stay to
10 be lifted when there had been documents produced to
11 governmental authorities. It happens routinely. It happened
12 in WorldCom, in Enron, a whole number of cases.

13 THE COURT: That was much further down the line in an
14 ongoing series of litigations. I don't think you could use
15 WorldCom and Enron in this context.

16 MR. RUSSELLO: That's true. But the importance I
17 think still should be recognized here insofar as the tender
18 offer is a very time-sensitive transaction. It's going to
19 close soon and we're not going to have the information. Of
20 course that necessitates the injunction motion and necessitates
21 the demand for documents, which we believe, by the way, are
22 very particularized. In addition, there hasn't been any
23 objection to the number of depositions that we would like to
24 conduct either.

25 THE COURT: Thank you.

1 Defense, respond to the point that because they are
2 being asked to sign a broad release, they are entitled to know
3 exactly what potential claims are, and if they knew more about
4 the SEC regulatory action, they would get a better sense of
5 what potential claims out there exist that they would be
6 releasing if they tendered their shares.

7 MR. DAVIDOW: Information about an SEC document
8 request tells them nothing about what claims might be out
9 there.

10 THE COURT: But it tells them what the SEC is sniffing
11 around about.

12 MR. DAVIDOW: It tells them what documents the SEC has
13 asked for, that's all it tells them. I know of no basis to
14 suggest that that is a matter that investors would consider
15 material. Materiality is the issue here under Delaware law.
16 Under the federal laws, as your Honor noted before, unless they
17 have alleged a false or misleading statement, there is simply
18 no basis for simply wanting more information.

19 In the cases like Enron and others, where you had
20 investigations that had gone on to the point, and I believe
21 this is the case, that there had been large productions of
22 materials, that there had been cases brought -- in the case of
23 WorldCom, the SEC had actually commenced a proceeding and made
24 accusations -- one can see a better argument for it.

25 Where there has not been so much as a Wells call or a

1 case brought, there is absolutely no reason to believe that the
2 SEC has considered what claims to bring or that the investors
3 have a need as a matter of materiality to know what requests
4 have been sent.

5 THE COURT: Thank you.

6 We have segued I think by way of necessity into the
7 preliminary injunction. I'm going to ask that you come back,
8 because I want to think about the cases that you have presented
9 me with more, come back on Tuesday the 17th if you can, at
10 3:00, and we will have further discussion on the injunction
11 point.

12 Right now I'm going to deny the request for expedited
13 discovery. I'm going to adhere to the PSLRA stay of discovery.
14 I don't think discovery is needed here to prevent undue
15 prejudice based on what I've heard. I do think it is a search
16 for additional information; I just don't see the linkage to
17 alleged misleading statements. I obviously want to focus on
18 that.

19 I'll be working on this. If I change my mind, I'll
20 certainly let everybody now. As of now, this is a denial of
21 the request for expedited discovery.

22 Oral argument, or I should say further oral argument
23 on June 17th at 3 p.m.

24 Anything else? Sir?

25 MR. RUSSELLO: One thing, your Honor. With respect to

1 an opportunity to reply in connection with the injunction
2 motion, may we have an opportunity?

3 THE COURT: Yes, you do have an opportunity. When
4 would you like to respond? I'm not going to press you on the
5 time, but the more time I have to think about it, the better it
6 is for the litigants. Whatever you want. Save this weekend
7 though.

8 MR. RUSSELLO: Would it be OK to file a reply on or
9 about the 12th? I don't really have a date in front of me.

10 THE COURT: Can you do it by the 10th? That's a
11 Tuesday.

12 MR. RUSSELLO: Sure.

13 THE COURT: Do it by the 10th, Tuesday, and have a
14 copy hand-delivered to chambers as well as filing.

15 MR. RUSSELLO: Sure.

16 THE COURT: Anything else? Thank you all.

17 (Adjourned)
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EXHIBIT B

731 Lexington Avenue
New York, NY 10022

Citi Alternative Investments



May 30, 2008

Dear Investor in Falcon Strategies Two LLC (the "Company"):

Enclosed is Supplement No. 3 to the Company's Confidential Tender and Exchange Offer Memorandum dated May 8, 2008, as supplemented by Supplement No. 1 dated May 15, 2008 and Supplement No. 2 dated May 23, 2008 (the "Confidential Memorandum"). This Supplement should be read in conjunction with the Confidential Memorandum.

This Supplement is for informational purposes only. If you have already tendered Existing Shares (as defined in the Confidential Memorandum) you do not need to take any further action with respect to such Existing Shares.

If you have any questions regarding the terms of the Tender and Exchange Offer, please direct your questions to CAI Investor Services at (212) 783-1330. Thank you for your time in reviewing this request.

Sincerely,

Citigroup Alternative Investments LLC

SUPPLEMENT NO. 3**TO****FALCON STRATEGIES TWO LLC
PORTFOLIO A****CONFIDENTIAL TENDER AND EXCHANGE OFFER MEMORANDUM**

This supplement ("Supplement") is being furnished by Falcon Strategies Two LLC (Portfolio A of which is referred to as the "Company") in connection with its offer to exchange a cash payment of \$0.45 per share (the "Exchange Consideration") for its outstanding shares of each series of limited liability company interest ("Existing Shares" and the holders of Existing Shares, "Existing Holders") and, to those Existing Holders who are eligible and so electing, shares of limited liability company participation interest ("Participation Shares") for each Existing Share so tendered, as more fully explained in the Company's confidential tender and exchange offer memorandum, dated May 8, 2008, as amended by Supplement No. 1, dated May 15, 2008, and by Supplement No. 2, dated May 23, 2008 (as so amended, the "Confidential Memorandum" and the transactions contemplated thereby, the "Exchange Offer"). This Supplement amends and supplements, and should be read in conjunction with, the Confidential Memorandum. Capitalized terms used herein but not otherwise defined shall have the respective meanings assigned to such terms in the Confidential Memorandum.

This Supplement is for informational purposes only. If you have already tendered Existing Shares, you do not need to take any further action with respect to such Existing Shares unless you wish to revoke your prior tender thereof.

Net Asset Value

We have amended and restated Annex A to the Confidential Memorandum to provide the net asset value ("NAV") per Existing Share as of April 30, 2008. The Exchange Offer does not affect the methodology employed to calculate the NAV of the Company or the Existing Shares. The NAV of the Existing Shares has been and will continue to be calculated in the same manner as has been calculated since the date of the original offering memorandum pursuant to which the Existing Shares were purchased (the "Original PPM"). The Exchange Offer will not affect the methodology by which income, gains and losses are allocated to the Existing Shares for those who choose not to participate.

Risks

We have amended and restated the following risk factor as set forth below:

Risk of Litigation and Release of Liability

On April 4, 2008 an investor in Falcon Strategies Two B LLC ("Falcon Two B"), one of the Falcon Funds, filed a class action complaint against Falcon Two B, Citi and the Investment Manager in the U.S. District Court for the Southern District of Florida, for common law fraud, violations of Florida blue sky law, negligent misrepresentation and violations of Section 12(a)(2) of the Securities Act. The complaint alleged that the Investment Manager misrepresented the level of risk of its investment strategy and that Falcon Two B and the Investment Manager were aware and knew high risk investment and management strategies were being undertaken in managing Falcon Two B, but failed to disclose those investment strategies to the existing investors and continued to market the fund as a low risk investment tool to investors. The plaintiff sought compensatory and punitive damages, as well as disgorgement of profits and commissions, reimbursement of legal fees and expenses, restitution and rescission. On May 12, 2008, the plaintiff voluntarily dismissed the complaint described above. The voluntary dismissal was not the result of an out-of-court settlement or other payment by Falcon Two B or any of its affiliates to the plaintiff. There can be no assurance that this complaint will not be re-filed or that other similar suits will not be filed or similar claims will not be made against the Company or any of its affiliates.

On May 20, 2008, an investor in the Company filed a putative class action complaint (the "Complaint") against the Company, Citi, the Managing Member, the Investment Manager and an employee of the Investment Manager (the "Defendants") in the U.S. District Court for the Southern District of New York, alleging violations of sections 10(b) and 14(e) of the Exchange Act and breach of fiduciary duty under Delaware law. The complaint alleges that the Confidential Memorandum contains materially misleading statements and omissions of fact, including the omission of (1) information sufficient to permit investors to accurately value their shares, (2) sufficiently specific information regarding the nature or value of the Company's underlying assets, (3) the nature of existing and potential claims that

would be released by tendering investors, (4) the voluntary dismissal of the putative class action related to Falcon Two B described above, (5) the nature and scope of the U.S. regulatory inquiry disclosed in the Confidential Memorandum, (6) information sufficient to determine whether the liquidation of assets in the Company may generate proceeds exceeding the Exchange Consideration; and (7) misrepresents the events resulting in the decline in value of the Existing Shares. The plaintiff seeks relief in the form of an injunction barring the tender and exchange offer until Defendants have made disclosures the plaintiff claims are necessary to correct or supplement the allegedly inadequate disclosures set forth in the Complaint. On May 21, 2008, the plaintiffs filed an application for a preliminary injunction enjoining the Exchange Offer until such time as the additional disclosures sought in the Complaint are made. We believe we have meritorious defenses to this Complaint and intend to assert such defenses to the fullest extent. The Complaint (Ferguson Family Trust v. Falcon Strategies Two LLC et al., No. 08 Civ. 4723 (S.D.N.Y.)) is publicly available.

Additionally, the Investment Manager or any individuals selected to advise and manage Funds (each such individual, an "Advisor") might become involved in litigation as a result of investments made by the Company or any other Falcon Fund. Under such circumstances, the Company, the Falcon Funds and/or other affiliated entities could be named as a defendant in a lawsuit or regulatory action. Citi has received two requests for documents concerning Citi-managed hedge funds in connection with an informal inquiry by the SEC. Citi is responding to those requests and cooperating with the SEC. Certain affiliates of the Company are currently the subject of Financial Industry Regulatory Authority arbitration proceedings relating to sales practices relating to securities of the Company or its affiliates. The Release would prevent participating holders from engaging in such proceedings and there can be no assurance as to the ultimate result of such claims or that other similar proceedings will not be brought against the Company the Falcon Funds and/or other affiliated entities.

By participating in the Exchange Offer, you are releasing various parties, including without limitation the Company, the Investment Manager and any Advisor, from liability in connection with any investment loss in respect of your Existing Shares in order to participate in the Exchange Offer; although you are not releasing such parties to the extent, and with respect to, equity interests you may own in any other Falcon Fund. In addition, to the extent that you or others have claims against us or any Releasee in connection with your or their Existing Shares and choose to litigate such claims, including the claims described above with respect to the Company or similar claims that may be brought against one or more of the Falcon Funds, including the Company, you will not be able to pursue any such claims or participate in any award or settlement which may be obtained as a result of such litigation, which award or settlement may include compensatory and punitive damages, as well as disgorgement of profits and commissions, reimbursement of legal fees and expenses, restoration and rescission. Any damages required to be paid by the Company will reduce the funds available, if any, for distribution on the Participation Shares upon the occurrence of a Participation Event.

Revocation Rights

Tenders of Existing Shares (including Existing Shares tendered for Early Settlement) may be revoked at any time prior to the Expiration Date. For a revocation of a tender to be effective, a written notice of revocation (the form of which is attached as Annex A to the Exchange Offer Subscription Agreement) must be received by the appropriate party prior to the Expiration Date in accordance with the instructions set forth in the Exchange Offer Subscription Agreement. Existing Holders who have tendered Existing Shares for Early Settlement who wish to revoke such tenders must also return the Exchange Consideration received prior to the Expiration Date. See "The Exchange Offer—Revocation Rights" (and, if applicable "—Early Settlement") in the Confidential Memorandum.

Additional Information

Except as described in this Supplement, the information provided in the Confidential Memorandum continues to apply and this Supplement should be read in conjunction with the Confidential Memorandum. To the extent information in this Supplement differs from, updates or conflicts with information contained in the Confidential Memorandum, the information in this Supplement is more current. If you need another copy of the Original PPM, Confidential Memorandum or the Exchange Offer Subscription Agreement, please contact Citigroup Alternative Investments LLC, Attn: Investing Services, 731 Lexington Avenue, 27th Floor, New York, New York 10022, or by telephone at (212) 783-1330.

Falcon Strategies Two LLC
Portfolio A

May 30, 2008

AMENDED AND RESTATED**ANNEX A TO CONFIDENTIAL TENDER AND EXCHANGE OFFER MEMORANDUM****NET ASSET VALUE AND EXCHANGE CONSIDERATION****FALCON STRATEGIES TWO LLC - SERIES 2005-1A**

Net Asset Value			
Per Share as of March 31, 2008	Percentage of Initial Capital Invested*	Per Share as of April 30, 2008	Percentage of Initial Capital Invested*
\$0.192	19.1%	\$0.224	22.3%

Exchange Consideration	
Per Share	Percentage of Initial Capital Invested*
\$0.450	44.9%

Distributions Since Inception as a Percentage of Initial Capital Invested*
18.2%

*Initial Capital Invested represents purchases from the Company and not any subsequent transfers

EXHIBIT C

SUPPLEMENT NO. 1

TO

FALCON STRATEGIES TWO B LLC

AMENDED AND RESTATED CONFIDENTIAL TENDER AND EXCHANGE OFFER MEMORANDUM

This supplement ("Supplement") is being furnished by Falcon Strategies Two B LLC (the "Company") in connection with its offer to exchange a cash payment of \$0.45 per share (the "Exchange Consideration") for its outstanding shares of each series of limited liability company interest ("Existing Shares" and the holders of Existing Shares, "Existing Holders") and, to those Existing Holders who are eligible and so electing, shares of limited liability company participation interest ("Participation Shares") for each Existing Share so tendered, as more fully explained in the Company's confidential tender and exchange offer memorandum, dated April 23, 2008, as amended and restated by Amendment No. 1, dated April 29, 2008 (as so amended and restated, the "Confidential Memorandum" and the transactions contemplated thereby, the "Exchange Offer"). This Supplement amends and supplements, and should be read in conjunction with, the Confidential Memorandum. Capitalized terms used herein but not otherwise defined shall have the respective meanings assigned to such terms in the Confidential Memorandum.

Extension of Expiration Date

We have extended the Exchange Offer in order to change the expiration date to June 30, 2008 (the "Expiration Date"), unless further extended by the Company. Existing Holders will be entitled to revoke any tender of Existing Shares prior to such new Expiration Date, including any Existing Shares tendered for Early Settlement or pursuant to the Prior Settlement Option (defined below).

Results

Pursuant to the terms of the Confidential Memorandum, as of May 22, 2008, Existing Holders had tendered 205,867,104 Existing Shares (representing approximately 60% of the Existing Shares), of which 187,694,676 Existing Shares (representing approximately 55% of the Existing Shares) were tendered pursuant to the Prior Settlement Option or May 15, 2008 Early Settlement deadline.

Early Settlement

Existing Holders can still elect to participate in Early Settlement as set forth in the Confidential Memorandum. Existing Holders may elect Early Settlement and receive the Exchange Consideration and Participation Shares, if applicable, by June 6, 2008 with respect to such Existing Shares tendered subsequent to May 15, 2008 but prior to 5:00 p.m. on May 30, 2008.

Revocation Rights

Holders who participated in the Prior Settlement Option or who have chosen or choose to participate in Early Settlement will retain the right to revoke such tenders prior to the Expiration Date by return to the Company of any Exchange Consideration, and forfeiture of any Participation Shares, received in addition to compliance with the revocation procedures set forth in the Confidential Memorandum.

If you participated in the Prior Settlement Option or Early Settlement, or are considering participating in Early Settlement for the May 30, 2008 deadline, you should consult your tax advisor with respect to any potential effect of the extension of the Exchange Offer on the tax consequences to you of any such past or future participation including, without limitation, any potential effect on your holding period for your Existing Shares. In addition, you should consult your tax advisor regarding the tax consequences to you with respect to the revocation of any Existing Shares tendered and accepted for Early Settlement or pursuant to the Prior Settlement Option.

Risks

We have amended and restated the following risk factor as set forth below:

Risk of Litigation and Release of Liability

On April 4, 2008 an investor in the Company filed a class action complaint against the Company, Citi and the Investment Manager in the U.S. District Court for the Southern District of Florida, for common law fraud, violations of Florida blue sky law, negligent misrepresentation and violations of Section 12(a)(2) of the Securities Act. The complaint alleged that the Investment Manager misrepresented the level of risk of its investment strategy and that the Company and the Investment Manager were aware and knew high risk investment and management strategies were being undertaken in managing the Company, but failed to disclose those investment strategies to the existing investors and continued to market the fund as a low risk investment tool to investors. The plaintiff sought compensatory and punitive damages, as well as disgorgement of profits and commissions, reimbursement of legal fees and expenses, restitution and rescission. On May 12, 2008, the plaintiff voluntarily dismissed the complaint described above. The voluntary dismissal was not the result of an out-of-court settlement or other payment by the Company or any of its affiliates to the plaintiff. There can be no assurance that this complaint will not be re-filed or that other similar suits will not be filed or similar claims will not be made against the Company or any of its affiliates. Additionally, the Investment Manager or any individuals selected to advise and manage Funds (each such individual, an "Advisor") might become involved in litigation as a result of investments made by the Company or any other Falcon Fund. Under such circumstances, the Company, the Falcon Funds and/or other affiliated entities could be named as a defendant in a lawsuit or regulatory action. Additionally, Citi has received two requests for documents concerning Citi-managed hedge funds in connection with an informal inquiry by the SEC. Citi is responding to those requests and cooperating with the SEC.

On May 20, 2008, an investor in Falcon Two LLC ("Falcon Two"), one of the Falcon Funds, filed a putative class action complaint (the "Complaint") against the Falcon Two, Citi, the Managing Member, the Investment Manager and an employee of the Investment Manager (the "Defendants") in the U.S. District Court for the Southern District of New York, alleging violations of sections 10(b) and 14(e) of the Exchange Act and breach of fiduciary duty under Delaware law. The complaint alleges that the Confidential Tender and Exchange Offer Memorandum (the "Falcon Two OM"), relating to an exchange offer launched by Falcon Two similar to the Exchange Offer, contains materially misleading statements and omissions of fact, including the omission of (1) information sufficient to permit investors to accurately value their shares, (2) sufficiently specific information regarding the nature or value of Falcon Two's underlying assets, (3) the nature of existing and potential claims that would be released by tendering investors, (4) the voluntary dismissal of the putative class action related to Falcon Two B described above, (5) the nature and scope of the U.S. regulatory inquiry disclosed in the Falcon Two OM, (6) information sufficient to determine whether the liquidation of assets in Falcon Two may generate proceeds exceeding the exchange consideration offered in such exchange offer; and (7) misrepresents the events resulting in the decline in value of the existing shares of Falcon Two. The plaintiff seeks relief in the form of an injunction barring Falcon Two's exchange offer until Defendants have made disclosures the plaintiff claims are necessary to correct or supplement the allegedly inadequate disclosures set forth in the Complaint. On May 21, 2008, the plaintiffs filed an application for a preliminary injunction enjoining Falcon Two's exchange offer until such time as the additional disclosures sought in the Complaint are made. Falcon Two believes it has meritorious defenses to this Complaint and intends to assert such defenses to the fullest extent. The Complaint (Ferguson Family Trust v. Falcon Strategies Two LLC et al., No. 08 Civ. 4723 (S.D.N.Y.)) is publicly available.

By participating in the Exchange Offer, you are releasing various parties, including without limitation the Company, the Investment Manager and any Advisor, from liability in connection with any investment loss in respect of your Existing Shares in order to participate in the Exchange Offer; although you are not releasing such parties to the extent, and with respect to, equity interests you may own in any other Falcon Fund. In addition, to the extent that you or others have claims against us or any Releasee in connection with your or their Existing Shares and choose to litigate such claims, including the claims described above

with respect to the Company or similar claims that may be brought against one or more of the Falcon Funds, including the Company, you will not be able to pursue any such claims or participate in any award or settlement which may be obtained as a result of such litigation, which award or settlement may include compensatory and punitive damages, as well as disgorgement of profits and commissions, reimbursement of legal fees and expenses, restoration and rescission. Any damages required to be paid by the Company will reduce the funds available, if any, for distribution on the Participation Shares upon the occurrence of a Participation Event.

Additional Information

Existing Holders are encouraged to review the original offering memorandum (the "PPM") pursuant to which they purchased their Existing Shares. Except as described in this Supplement, the information provided in the Confidential Memorandum previously mailed to all Existing Holders continues to apply and this Supplement should be read in conjunction with the Confidential Memorandum. To the extent information in this Supplement differs from, updates or conflicts with information contained in the Confidential Memorandum, the information in this Supplement is more current. If you need another copy of the PPM, Confidential Memorandum or the Exchange Offer Subscription Agreement, please contact Citigroup Alternative Investments LLC, Attn: Investing Services, 731 Lexington Avenue, 27th Floor, New York, New York 10022, or by telephone at (212) 783-1330.

This Supplement is for informational purposes only. If you have already tendered Existing Shares, you do not need to take any further action with respect to such Existing Shares unless you wish to revoke your prior tender thereof.

Falcon Strategies Two B LLC

May 23, 2008

EXHIBIT D

RISK FACTORS

The decision as to whether to participate in the Exchange Offer involves a high degree of risk and uncertainty. You should carefully consider the risks and uncertainties described below as well as the other information appearing elsewhere in this Confidential Memorandum before making a decision whether to participate in the Exchange Offer. The risks and uncertainties described below are intended to highlight risks and uncertainties that are specific to us but are not the only risks and uncertainties that we face. The Company's investments in MOF Five involve risks, and there can be no assurance that the Company will achieve its objectives or that holders will receive any distribution on the Participation Shares or Existing Shares or that holders of Existing Shares following the Exchange Offer will not suffer further losses including with respect to amounts allocated as part of the April Citi Allocation or Special Interest Allocation. In considering participating in the Exchange Offer, Existing Holders should consult their independent legal, tax, financial and other advisers, and should be aware of certain considerations and risk factors which include, but are not limited to, the risks described below.

The information in this Confidential Memorandum includes forward-looking statements which involve risks and uncertainties. Our actual results could differ materially from those anticipated in these forward-looking statements as a result of numerous factors, including those described in this section and elsewhere in this Confidential Memorandum and the audited annual financial statements for the year ended December 31, 2007. See "Forward-Looking Statements." See also Annex B to this Confidential Memorandum for sample calculations comparing the potential outcomes for Existing Holders who do or do not participate in the Exchange Offer, given different assumptions of the future performance of the Company and subject to the qualifications and limitations disclosed therein.

Risk of Litigation and Release of Liability

On May 1, 2008 an investor in MAT Five filed a class action complaint against MAT Five, Citi and the Managing Agent in the U.S. District Court for the Southern District of New York for breach of fiduciary duties and violations of Section 12(a)(2) of the Securities Act. The complaint alleges that MAT Five, Citi and the Managing Agent misrepresented the level of risk of MOF Five's investment strategy and that the prospectus relating to the Existing Shares contained untrue statements of material fact and concealed and failed to disclose material facts. The complaint further alleges that Citi and the Managing Agent failed to properly preserve the assets of MAT Five and ignored and did not protect against numerous conflicts of interest in connection with Citi's investment in MAT Five. The plaintiff seeks class certification, compensatory damages, reimbursement of legal fees and expenses, rescission or a rescissory measure of damages and additional equitable and/or injunctive relief. There can be no assurance that other similar suits will not be filed or that claims will not be made against MAT Five or any of its affiliates.

In addition to the foregoing, the Managing Agent might become involved in other litigation as a result of investments made in MOF Five. Under such circumstances, MAT Five and/or other affiliated entities could be named as a defendant in a lawsuit or regulatory action. Citi has received two requests for documents concerning Citi-managed hedge funds in connection with an informal inquiry by the SEC. Citi is responding to those requests and cooperating with the SEC. Certain affiliates of the Company are currently the subject of Financial Industry Regulatory Authority arbitration proceedings relating to sales practices relating to securities of the Company or its affiliates. The Release would prevent participating holders from engaging in such proceedings and there can be no assurance as to the ultimate result of such claims or that other similar proceedings will not be brought against MAT Five or any of its affiliates, including the Company.

You are releasing various parties, including without limitation MOF Five, MAT Five, Citi, the Managing Agent and any sub-agent, from liability in connection with any investment loss in respect of your Existing Shares in order to participate in the Exchange Offer; although you are not releasing such parties to the extent, and with respect to, equity interests you may own in any other portfolio of MAT Five. In addition, to the extent that you or others have claims against us or any Releasee in connection with your or their Existing Shares and choose to litigate such claims, including the claim described above with respect to MAT Five or similar claims that may be brought against MAT Five or any portfolio thereof, including the Company, you will not be able to pursue any such claims or participate in any award or settlement which may be obtained as a result of such litigation, which award or settlement may include compensatory and punitive damages, as well as disgorgement of profits and commissions, reimbursement of legal fees and expenses, restoration and rescission. Any damages or indemnity required to be paid by MOF Five or MAT Five will reduce the funds available, if any, to the Company for distribution on the Participation Shares or Existing Shares upon the occurrence of an applicable Participation Event.